



## Delaware River Basin Commission

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**Carol R. Collier**  
Executive Director

**Robert Tudor**  
Deputy Executive Director

June 4, 2003

### **Subject: Request for Nominations to TMDL Implementation Advisory Committee**

Dear Stakeholder:

The Delaware River Basin Commission is seeking nominations to its new TMDL Implementation Advisory Committee ("IAC"), which shall be asked to develop creative and cost-effective strategies for reducing loadings of polychlorinated biphenyls ("PCBs") and achieving the total maximum daily loads ("TMDLs") for PCBs in the Delaware Estuary. The involvement of the basin community, including direct stakeholders and others, is essential to finding solutions to the estuary PCB problem and ultimately to achieving our goal—a cleaner, healthier estuary that meets water quality standards, is free of fish consumption advisories, and provides enhanced economic and recreational opportunities in the Delaware Valley.

This letter describes the role of the IAC in greater detail, the process for nominating its members, the member selection criteria to be applied, resources assembled to support the IAC process, and current resource gaps. The process implements many of the recommendations contained in Volume II of the report dated December 2002 that was prepared for the Commission by the Marasco Newton Group, Ltd.\* ("MNG"). The IAC member selection process and tasks also reflect public comments submitted to the Commission in January 2003 in response to the MNG report.† MNG's effort, consisting of a series of over 70 stakeholder interviews, preparation of a report summarizing stakeholder concerns, and development of a set of recommendations on the composition and function of the IAC, was conducted under a grant from the William Penn Foundation. The report and recommendations helped the Commission to better understand the concerns of stakeholders and to institute changes in our process to respond to these concerns.

We ask that nominations to the IAC conform to the instructions provided in this letter and that they be submitted to my attention at the above address on or before the close of business on July 15, 2003.

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\* The Marasco Newton Group, Ltd. was recently renamed The MNG Center for Environmental Strategies and Technology, or "MNG Center."

† The report and comments are posted on the Commission's web site at [www.drbc.net](http://www.drbc.net). Select "Toxics and PCB Information." Then select, "Report and Recommendations on PCB TMDL Stakeholder Implementation Process; Invitation to Comment." Comments on the report from the Delaware Riverkeeper Network, the City of Philadelphia, and Corporate members of the Delaware Estuary TMDL Coalition also may be viewed at this site.

## **IAC Role and Responsibilities**

The IAC is expected to convene six times a year for two years, with the initial meeting tentatively scheduled for the week of either September 7 or September 14, 2003. A few of the meetings, including the first, may be two days long and involve a single overnight stay in a hotel or conference center within the estuary drainage area. The IAC will be asked to:

- 1) ***Develop information about PCB reduction programs that work elsewhere in the United States or abroad.*** MNG will provide the committee with a head start by developing a short white paper that describes and evaluates ten to twelve PCB clean-up efforts elsewhere in the U.S.
- 2) ***Develop strategies capable of prompt implementation for reducing potential and active PCB sources.*** For PCBs currently in service but not leaking to the air, land or water (potential sources) and for PCBs actively entering the estuary watershed from equipment, soils, sediment or other sources (active sources), develop cost-effective strategies and programs for identifying, containing and safely disposing of them in order to prevent further releases. For example, the committee could advocate a PCB transformer removal and replacement program.
- 3) ***Develop a comprehensive strategy for achieving the PCB TMDLs.*** Develop a set of implementation strategies for achieving the TMDLs, including, for each strategy component, the lead entity, projected cost, schedule, potential funding mechanisms (if public or outside private funding is necessary), monitoring or other programs needed to measure progress, and new rules that may be required. An adaptive management approach to implementation is anticipated.
- 4) ***Develop recommended wasteload and load allocations.*** The Commission's regulations provide that wasteload allocations shall be developed using the equal marginal percent reduction method, but also provide for the use of alternate procedures that achieve equivalent results as long as affected dischargers agree. The IAC may wish to recommend wasteload and load allocations for all or portions of the estuary in accordance with DRBC rules.

The IAC will be encouraged to engage in creative, collaborative problem-solving to achieve the shared goal of reducing PCB contamination in the estuary. Its recommendations will be submitted to the Commission, which will consider them in consultation with all regulatory agencies whose approval is required to implement them. Each regulatory agency also will be represented on the IAC. It is anticipated that the IAC's work will influence the wasteload and load allocations that accompany the revised TMDLs to be issued in 2005. Recommendations that have the strong support of diverse IAC members will certainly carry extra weight. However, all regulatory actions to

implement IAC recommendations will be subject to the required public notice, comment and approval processes.

### Nominating Process

The proposed composition of the IAC is presented in the following table. The Commission will retain the flexibility to add members over time if new PCB sources are identified that in the Executive Director's view cannot be adequately represented by the existing membership. Each member will have an alternate selected by him or her from the same stakeholder category.

Stakeholder Type	Number of Representatives
Regulatory Agencies <ul style="list-style-type: none"><li>▪ One each from EPA Regions II and III (2)</li><li>▪ One from each State (3)</li><li>▪ One from DRBC (1)</li></ul>	6
Industrial Dischargers One from each State and one At-Large (4)	4
Large Municipalities <ul style="list-style-type: none"><li>▪ Philadelphia</li><li>▪ Camden</li><li>▪ Wilmington</li></ul>	3
Small Municipalities	2
Wildlife and Fishery Interests/ Environmental Groups	5
<b>Total Membership*</b>	<b>20</b>

\*Does not include proposed non-voting, neutral chair (see page 7).

In 2001 when the concept of the IAC was introduced, it was felt that all DRBC Toxics Advisory Committee ("TAC") members should have an opportunity to participate on the IAC if they wished, and such a provision was incorporated in Resolution No. 2001-11 authorizing the IAC's formation. However, we have since concluded that the TAC and IAC functions (science and policy, respectively) should remain separate, and that the IAC can succeed only if each member has a mandate to represent other stakeholders with common interests. Thus, we will seek an amendment to Resolution 2001-11 to eliminate the provision according TAC members automatic membership on the IAC upon request. TAC members may serve as IAC members if they are nominated and selected to serve. Members of the TAC who do not have a seat on the IAC still will have an opportunity to contribute to the IAC process, either as consultants to any member who requests their help, as commenters on the IAC's proposals, or in the course of a dialogue that must take place between the two committees. Such a dialogue may be facilitated by overlapping

membership on the committees. The Executive Director also may appoint a staff liaison to help facilitate communication between the two committees.

### Selection Criteria and Process

IAC member selection criteria and document requirements are reflected in the table below. In addition, the following items or information must be submitted with each nomination:

- 1) Contact information for nominator/endorser, nominee and proposed alternate, including name, affiliation, street address or P.O. Box number, telephone, fax and e-mail address for each;
- 2) Stakeholder categories of nominator/endorser, nominee and proposed alternate (i.e., either regulator; industrial discharger; large municipality; small municipality; or wildlife and fishery interest/environmental group. If none of these apply, identify category you believe is appropriate); and
- 3) Nominee's availability for a two-day meeting during the week of either September 7 or September 14, 2003. (This item is requested to assist in meeting planning rather than for purposes of member selection.)

Criteria	Documenta- tion Req'd	Description
Has the authority to represent a group of stakeholders.	<u>Endorse- ments</u>	Nominations endorsed by multiple stakeholders (joint nominations) will carry more weight than nominations endorsed by just one entity. Endorsements should be assembled by the preparer and submitted with the nomination. To assist nominators in coordinating with other members of their stakeholder group, the Commission will provide available contact information upon request.
Is committed to, and ideally skilled at, a collaborative problem-solving approach. This means, in part, a commitment to meeting own interests while helping others meet theirs.	<u>Résumé, References</u>	Relevant experience should be evident from résumé or c.v. References should be able to comment on nominee's collaborative problem-solving skills. Nominees and alternates should be prepared to sign a statement to the effect that they will participate on the IAC in good faith and are committed to a collaborative problem-solving approach. Signing such a statement will be a condition of participation.

Criteria	Documentation Req'd	Description
Has the time and support of his or her institution to attend IAC meetings and fulfill other responsibilities of membership.	None	Nominators should consult candidates and be confident of their ability to commit the necessary time before nominating them. To be effective, members will have to maintain communications with members of their interest group. This may involve additional meetings, conference calls, e-mailings, etc.
Is able to serve on the IAC for two full years.	None	Nominators should be reasonably confident their nominee can see the process through from start to finish, with the understanding on all sides that unforeseen circumstances will inevitably arise in some cases.
Authority to commit his or her own institution and the other institutions he or she represents.	<u>Annotated Org. Chart</u>	A chart depicting the nominee's and proposed alternate's positions in their organizations should be provided. The nominee's authority to commit resources of his or her organization is desirable but not required. If the nominee does not possess it, then the name and title of the individual with such authority should be provided. Nominees must be prepared to consult with other stakeholders in their interest group in order to make commitments on their behalf.
Has an alternate representative who can attend IAC meetings if required.	<u>Cover Letter</u>	Nominations should state the identity of the proposed alternate, who may be from within the nominee's organization or, preferably, from another organization in the same interest group.
Has a basic understanding of PCB issues or could readily acquire it.	<u>Résumé</u>	Résumé or c.v. should demonstrate relevant experience and background.

Because no one person is likely to possess all of the technical and policy experience needed for this effort, it is anticipated that members will consult other individuals from their organization or interest group, or outside consultants between meetings. Although advisors will not be excluded, only the member (or alternate in the member's absence) will have a seat at the table and vote on behalf of his or her interest group at meetings.

All participants may be required to pay or contribute to the cost of meals and lodging related to meetings.

Stakeholder endorsements and collaborative problem-solving skills and experience will be the most important factors in member selection. The Executive Director will review applications in light of these and the other criteria, and in consultation with the Commissioners will select committee members. The Executive Director will announce the Commission's IAC membership selections in late July.

### **Assembled Resources and Additional Needs**

One of the committee's first tasks will be to define its needs and assemble the resources necessary to meet them. IAC meetings will be coordinated and facilitated by professional neutral facilitators from the MNG Center. The DRBC staff, and outside consultants as needed, will provide technical support for the group. To help cover these costs, the State of Delaware has contributed \$120,000; the City of Philadelphia has donated \$19,000 in fines collected from an illegal discharger of PCBs within its wastewater collection system; and the Delaware Estuary Program has committed \$25,760 in Fiscal Year 2004 funds. These generous contributions are inadequate, however, to cover all of the committee's anticipated needs.

Without knowing the direction the committee will take, its expenses are difficult to predict. Although the committee may elect to do the job with fewer funds or to raise more, our preliminary estimate for providing a level of support sufficient to achieve meeting preparedness and ensure members make informed decisions is about \$400,000. This sum would cover facilitation; technical support; meals and lodging for members, alternates, facilitators and guests; and two additional needs that are discussed below—a technical consultant for the not-for-profit participants, and a neutral committee chair, if desired.

Not-for-profit environmental organizations have urged that they cannot participate effectively without the ability to hire technical experts of their own. It is critical that these groups participate in the IAC process on an equal basis with others; thus, means must be found to provide them with the necessary technical expertise.

The committee is invited to consider appointing a chair who has no strong institutional interest in the outcome of the process but who is a creative problem-solver, is trusted by all interest groups, and is committed to finding cost-effective PCB reduction strategies capable of implementation. The role of such a chair would be to work with the facilitator and other members to catalyze agreements. The committee's preference and nominations for chair will be discussed at the initial IAC meeting in September.

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Thank you for participating in the stakeholder process. I look forward to receiving your nominations on or before July 15, 2003. Together, I know we can develop cost-effective strategies for reducing PCB contamination in the Delaware Estuary and in doing so, improve the ecology, economy and quality of life in our region.

Sincerely,

A handwritten signature in black ink that reads "Carol R. Collier". The script is cursive and fluid.

Carol R. Collier  
Executive Director

c: DRBC Commissioners